

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-47894

HOWARD BUFORD CULBERT, JR.,

Chapter 7

Debtor.

Judge Thomas J. Tucker

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ORDER DENYING DEBTOR'S MOTION TO REINSTATE BANKRUPTCY CASE

This case comes before the Court on Debtor's "Motion to Reinstate Chapter 7 Bankruptcy For Purposes of Filing Certificate [of Counseling]," filed on April 5, 2009 (Docket # 12, the "Motion"), which this Court construes as a motion for reconsideration of the Court's April 3, 2009 Order dismissing this case (Docket # 11).

The Court has reviewed and considered the motion for reconsideration and finds that the motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(c).

Further, the Court finds that the allegations in the Motion do not establish excusable neglect under Fed.R.Civ.P. 60(b)(1), FedR.Bankr.P. 9024, or any other valid ground for relief from the order dismissing this case.

In addition, the Court notes the following: Debtor is not eligible to be a debtor in this case under 11 U.S.C. § 109(h)(1). That section provides in relevant part, that

an individual may not be a debtor under this title unless such individual has, during the 180-day period preceding the date of filing the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such

individual in performing a related budget analysis.

The only certificate of credit counseling that Debtor has filed with the Court (untimely) states that Debtor received “an individual [or group] briefing that complied with the provisions of 11 U.S.C. §§ 109(h) and 111” on April 4, 2009. (*See* “Certificate of Counseling,” filed on April 5, 2009 (Docket # 12).) Debtor filed his voluntary petition for relief under Chapter 7 on March 17, 2009. Therefore, Debtor only received credit counseling *after* his petition was filed. With exceptions not applicable here, 11 U.S.C. § 109(h)(1) requires a debtor to obtain credit counseling *before* filing a bankruptcy petition.

Accordingly,

IT IS ORDERED that Debtor’s “Motion to Reinstate Chapter 7 Bankruptcy For Purposes of Filing Certificate [of Counseling]” (Docket # 12), is DENIED.

Signed on April 06, 2009

 /s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge